



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3009711
Applicant Name: Todd Walton for Clearwire LLC
Address of Proposal: 2440 Western Ave.

SUMMARY OF PROPOSED ACTION

Land Use Application to establish use and install a minor communication utility consisting of two panel antennas and two microwave dishes to be located inside of an expanded mechanical penthouse on the rooftop of an existing residential structure. The equipment cabinet will be located in the same mechanical penthouse.

The following approval is required:

SEPA - Environmental Determination - Seattle Municipal Code (SMC) 25.05.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

The site of the proposed roof-top telecommunications utility is on Western Avenue in the downtown neighborhood known as Belltown, between Wall and Battery Street, approximately 600 feet east of Pier 67 and is zoned Downtown Mixed Residential Commercial (DMR/C 85/65). Existing development on the site consists of an eight story multifamily building that includes

both residential units (condominiums) and street level commercial tenant spaces. The historic Hull building is located to the east of the subject site, at 2403 1st avenue, abutting a common alley. The zoning changes to the east of the abutting alley to Downtown Mixed Residential / Residential (DMR/R). Western is a principal arterial with a pedestrian overlay and is fully developed. The Battery Street off-ramp takes up a majority of the block to the southeast.

Proposal Description

The proposal to install a minor communication facility for Clearwire LLC will consist of two panels and two dish antenna for broadband internet service. All four antennas and associated equipment will be located in a 115 sq. ft. addition to an existing mechanical penthouse. The color, texture and materials used for the 5 foot by 23 foot addition will be the same as the existing penthouse. Per SMC 23.49.142 minor communications facilities are permitted outright in the zone and no additional review is required for the location on a residential bldg in this Downtown zone.

Public Comments

The public comment period for this project ended March 4, 2009. DPD received no written comment letters regarding this proposal.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was originally made in the environmental checklist dated October 28, 2008. The information in the environmental checklist (dated October 28, 2008), MUP plans, applicant's statement of Federal Communication Commission Compliance (prepared by James Cornelius, P.E., dated December 15, 2009), supplemental information and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulation are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based on adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665-D1 to 7. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

Short - Term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration considering the installation process. No conditioning of these impacts pursuant to SEPA authority is warranted.

Construction Noise Impacts

Along with the air quality, parking and energy use there may be noise impacts associated with the installation of the telecommunications utility. The initial installation of the antennas and construction of the equipment room may include some loud equipment and activities. The Department finds that the limitations of the Noise Ordinance are adequate to appropriately mitigate the adverse noise impacts associated with the proposal. No limits or conditioning is needed to mitigate construction impacts.

Long - Term Impacts

Long-term or use-related impacts are anticipated as a result of approval of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. Impact associated with exposure to radio frequency radiation is further discussed below.

Aesthetics

The Land Use Code (SMC 23.57.016.C), requires that the proposed facilities be integrated with architecture of the building. The antennas will be established inside an addition to an existing mechanical penthouse near the north wall of a northwesterly “leg” of the subject building. The area is near the center of this portion of the block (that is west of the alley). The siding of the penthouse addition will be of the same material, texture and color as the existing penthouse (blue corrugated metal) and will not be unduly conspicuous in this downtown environment.

SMC 23.57.013.B.2 allows minor communications utilities to be 15 feet above the roof top for buildings conforming to the height limits of the zone. The height limit for a residential building in the DMR/R zone is 85 feet and the roof top height for the building is 77 feet. All four (4) antenna and associated equipment cabinets will be located within the same penthouse addition which will be the same height as the existing rooftop penthouse which will be a maximum 11 feet above the rooftop and 3 feet above the height limit for the zone. With the location, materials and height proposed the visual appearance of the proposed telecommunication utility will be minimized.

Electro-magnetic Radiation (EMR)

The Federal Communications Commission (FCC) has been given exclusive jurisdiction to regulate wireless facilities. Standards have been adopted addressing maximum permissible exposure (MPE) limits of electromagnetic radiation emissions from these facilities to ensure the health and safety of the general public. In the event that any interference was to result from this proposal in nearby homes, businesses or in medical clinics, the FCC has authority to require the facility to cease operation until the issue is resolved.

The Seattle-King County Department of Public Health has studied sites where other telecommunication facilities have been installed and found that the exposures fall well below all the maximum permissible exposure (MPE) limits. The Department of Public Health does not believe these types of utilities to be a threat to public health.

The City has adopted Ordinance 116057 (January 1992, codified as SMC Chapter 25.10) specifically to ensure that the health and safety of the general public is protected from the adverse impact of electro-magnetic radiofrequency radiation and to establish performance standards to minimize health risks to the general public. The ordinance covers sources of radio frequency radiation, specifies radio frequency standards and measurement methods and includes permit requirements. The Communications Regulations Chapter of the Land Use Code (SMC 23.57.012-C2) requires that warning signs be posted at every point of access to the antennas noting the presence of electromagnetic radiation. The City is not aware of complaints from persons at other sites where wireless telecommunication facilities are established, about interference with the operation of electronic equipment, including sensitive medical devices (e.g. - pacemakers).

According to the evaluation provided by the applicant (dated December 15, 2008, prepared by James Cornelius, P.E.), the proposed facility will not exceed the acceptable emission levels and MPE limits will not be exceeded.

The information discussed above, review of literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects form the basis for this analysis and decision. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted.

Other long term impacts such as height, bulk and scale, traffic, and air quality are minor and adequately mitigated by the City's existing codes and ordinances. Provided that the conditions of this decision are met and the proposal is constructed according to approved plans, no further mitigation pursuant to SEPA is warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

Prior to issuance of the Master Use Permit

1. The plans shall be revised to provide for signage in accordance with Section 23.57.010E4.

For the life of the project

2. The owner(s) and/or responsible party(s) shall provide screening of the antennas and related equipment located on the rooftop to blend with the texture, color and materials of the existing roof-top mechanical penthouse.
3. The owner(s) and/or responsible party(s) shall provide access and signage in accordance with Section 23.57.010E4, which restrict access to minor communication utilities to authorized personnel by fencing or other means of security.

Signature: _____ (signature on file) Date: May 7, 2009
Justina Guyott, Land Use Planner
Department of Planning and Development

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